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CHAIR



**Rex W. Cowdry, M.D.**  
EXECUTIVE DIRECTOR

## **MARYLAND HEALTH CARE COMMISSION**

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## **MARYLAND HEALTH CARE COMMISSION**

**Thursday, June 18, 2009**

### **Minutes**

Chair Moon called the public meeting to order at 1:10 p.m.

Commissioners present: Conway, Falcone, Fleig, Jefferson, Kan, Krumm, Lyles, McLean, Moore, Olsen, Ontaneda-Bernales, Petty, Todd, and Worthington.

### **ITEM 1.**

#### **Approval of the Minutes**

Commissioner Falcone made a motion to approve the minutes of the May 21, 2009 meeting of the Commission, which was seconded by Commissioner McLean, and unanimously approved.

### **ITEM 2.**

#### **Update of Activities**

David Sharp, Director, Center for Health Information Technology, said that Commission staff received four responses to its Request for Applications (RFA) from multi-stakeholder groups proposing to lead the development of a financially sustainable and organizationally sound statewide health information exchange. Dr. Sharp said staff will present its recommendations to the Commission at the July meeting, and then the recommendations will go to the Health Services Cost Review Commission meeting in August for action.

Pam Barclay, Director, Center for Hospital Services, asked the Commission to consider submitting a letter of support regarding the Department of Health and Mental Hygiene's grant application to the Centers for Disease Control and Prevention, funded under the American Recovery and Reinvestment Act, addressing *Building and Sustaining State Programs to Prevent Healthcare-Associated Infections (HAI) and Innovations in the Surveillance of Multi-Drug Resistant Organisms*. Ms. Barclay said the funds available under this program will build on the Commission's HAI initiatives and enable Maryland to strengthen its data collection, reporting, and analysis infrastructure to meet the challenge of preventing HAI. After discussion, the Commission voiced approval for a letter supporting the grant application.

Rex Cowdry, Executive Director, thanked and commended Pam Barclay and Ben Steffen for their going above and beyond the call of duty in their work with the Governor's Health Quality and Cost Council.

### **ITEM 3.**

#### **ACTION: COMAR 10.25.01 – Small Employer Health Benefit Plan Premium Subsidy Program – Action on Proposed and Emergency Regulations**

Janet Ennis, Chief, Small Group Market, presented suggested emergency and proposed permanent changes in regulations governing the Maryland Health Insurance Partnership.

1. The minimum countable wage for each eligible employee, including owners, partners and spouses would be \$11,310, based on the \$7.25 per hour minimum wage, times 30 hours per week, annualized.
2. The executive directors of non-profit entities would be treated the same as eligible owners by using the eligible owner's countable wage of \$60,000 for purposes of calculating the average wage of a business and calculating the subsidy.
3. Domestic partners would be allowed to qualify for a subsidy at the employee plus spouse level since several participating carriers indicated in a recent survey that premiums for covering domestic partners is the same as employee plus spouse premium.

Commissioner Ontaneda-Bernales made a motion to adopt the recommended proposed and emergency regulations, which was seconded by Commissioner Krumm, and unanimously approved.

#### **ACTION: COMAR 10.25.01 – Small Employer Health Benefit Plan Premium Subsidy Program – ADOPTED as emergency and proposed regulations.**

### **ITEM 4.**

#### **ACTION: COMAR 31.11.14 – Wellness Benefits Under Small Employer Health Benefit Plans – Action on Proposed Regulations**

Ms. Ennis presented proposed changes to COMAR 31.11.14, the wellness regulations that apply to all policies sold in the small group market. The first proposed change is a technical change in the current regulatory language to clarify that a prominent carrier is only required to offer one health benefit plan with a qualifying wellness benefit. Both prominent carriers and other carriers may offer other benefit plans with a qualifying wellness benefit. The second proposed regulatory change is to ensure that the definition of a wellness benefit in these regulations is consistent with the revised definition in small group market statute that occurred with the enactment of the Bona Fide Wellness Program Incentives legislation from the recent session while, at the same time, maintaining one of the requirements originally included in these regulations, which is to ensure that the components of a wellness benefit include a health risk assessment, written feedback to those who complete the health risk assessment, and a financial incentive to promote preventive care, healthy behavior, or participation in a disease management or case management program. Commissioner Krumm made a motion to approve the proposed regulation, which was seconded by Commissioner Fleig, and unanimously approved.

#### **ACTION: COMAR 31.11.14 – Wellness Benefits Under Small Employer Health Benefit Plans – ADOPTED as proposed permanent regulations.**

## **ITEM 5.**

### **ACTION: COMAR 10.24.05 – Research Waiver Applications: Atlantic C-PORT Study of Non-Primary PCI – Action on Final Regulations**

Dolores Sands, Chief, Specialized Services Policy and Planning, presented regulations for final action that govern the waiver process under which the Commission permits selected hospitals to participate in the C-PORT E research study of non-primary percutaneous coronary intervention (npPCI) in hospitals without on-site cardiac surgical backup. The regulations were adopted as emergency and proposed regulations at the Commission's March 19, 2009 meeting. Commissioner McLean made a motion to adopt the regulations as final, which was seconded by Commissioner Falcone, and unanimously approved. Commissioner Ontaneda-Bernales recused herself from this action.

## **ITEM 6.**

### **ACTION: Pending Applications in the npPCI Research Waiver Application Review, Metropolitan Baltimore and Metropolitan Washington Regional Service Areas**

- **Baltimore Washington Medical Center (Docket No. 08-02-0029 NPRW)**
- **Holy Cross Hospital (Docket No. 08-15-0033 NPRW)**
  - **Johns Hopkins Bayview Medical Center (Docket No. 08-24-0030 NPRW)**

On October 22, 2007, the Commission adopted regulations, COMAR 10.24.05, to establish a waiver program under which Maryland hospitals without on-site cardiac surgery services could apply to participate in a clinical research study conducted by the Atlantic Cardiovascular Patient Outcomes Team (C-PORT). The purpose of the study is to determine whether npPCI performed in hospitals without on-site cardiac surgery services is as safe and effective as npPCI performed in hospitals with on-site cardiac surgery services. These regulations provided for a one-time process by which up to six hospitals may receive a research waiver. Under emergency amendments to the regulations, adopted March 19, 2009, the maximum number of participating hospitals was increased to nine, with the additional possible research waivers limited to hospitals whose npPCI research waiver applications were pending as of that date.

Ms. Sands reported that Baltimore Washington Medical Center, Holy Cross Hospital, and Johns Hopkins Bayview Medical Center had pending applications seeking research waivers to perform non-primary percutaneous coronary intervention services within the C-PORT E research study. In 2008, Baltimore Washington Medical Center achieved a high volume of 124 cases, under its primary PCI (pPCI) waiver; the pPCI volume at Holy Cross Hospital increased to a moderate level, at 74 cases; and Johns Hopkins Bayview Medical Center experienced a decline in its pPCI volume, to 53 cases. Although Johns Hopkins Bayview Medical Center's diagnostic cardiac catheterization volume was the highest among the three applicants, this volume also declined; the hospital attributed the decline in diagnostic catheterizations to its having only one laboratory available for catheterizations for half of each day during the first two months of 2008.

Ms. Sands noted that both Holy Cross and Johns Hopkins Bayview depend heavily on changes in referral patterns to achieve the minimum number of PCIs. Each physician has expressed strong support of the hospitals' npPCI research waiver applications. The Executive Director concluded that Baltimore Washington Medical Center, Holy Cross Hospital, and Johns Hopkins Bayview Medical Center are likely to meet the Commission's annual case volume requirements for participation in the C-PORT E randomized clinical trial. He recommended that the Commission grant a non-primary PCI research waiver to each hospital. Commissioner Kan made a motion to approve the Executive Director's

recommendation, which was seconded by Commissioner Moore and unanimously approved. Commissioners Ontaneda-Bernales and Krumm recused themselves from consideration of this action.

**ACTION: The Applications of Baltimore Washington Medical Center, Holy Cross Hospital, and Johns Hopkins Bayview Medical Center for two-year Research Waivers to Provide Non-Primary PCI without On-Site Cardiac Surgery Services within the C-PORT E Study are hereby APPROVED.**

#### **ITEM 7.**

**ACTION: Requests for Primary PCI Waiver Renewal**

- **Southern Maryland Hospital Center (Docket No. 09-16-0043 WR)**
- **Shady Grove Adventist Hospital (Docket No. 09-15-0042 WR)**

Sadie Silcott, Health Policy Analyst, stated that Southern Maryland Hospital Center and Shady Grove Adventist Hospital applied for renewal of their two-year primary PCI waivers. Ms. Silcott noted that both Southern Maryland and Shady Grove meet the COMAR 10.24.17.05D(1) requirements for institutional resources, physician resources, patient groups suitable for pPCI in settings without on-site cardiac surgery, institutional volume, and process and outcome measures for ongoing quality assessment. She presented the Executive Director's recommendation that the Commission issue two-year waivers that permit Southern Maryland Hospital Center and Shady Grove Adventist Hospital to continue providing primary percutaneous coronary intervention services without on-site cardiac surgery services. Commissioner Moore made a motion that the Commission approve the Executive Director's recommendation, which was seconded by Commissioner Krumm, and unanimously approved. Commissioner Ontaneda-Bernales recused herself from consideration of this action.

**ACTION: The Applications of Southern Maryland Hospital Center and Shady Grove Adventist Hospital for Renewal of their two-year Waivers to Provide Primary PCI without Cardiac Surgery On-Site are hereby APPROVED.**

#### **ITEM 8.**

**ACTION: Certificate of Need – Harford Memorial Hospital (Docket No. 09-12-2290)**

Susan Myers, Health Policy Analyst, stated that Harford Memorial Hospital applied for a Certificate of Need that would add 16 general medical/surgical beds through renovation of existing space, create a family waiting area in space adjacent to the hospital's intensive care unit, add storage space, relocate some office space, and create corridor space to improve third-floor circulation. Ms. Myers said that the estimated capital cost of this project is \$2,443,755 and that the project is consistent with the State Health Plan MSGA bed need projections for Harford County. She noted that Commission staff found the project to be consistent with the applicable State Health Plan standards and CON review criteria and recommended that the Commission grant the Certificate of Need. Commissioner Petty made a motion to approve the staff recommendation, which was seconded by Commissioner Jefferson and unanimously approved. Commissioner Ontaneda-Bernales recused herself from consideration of this action.

**ACTION: Certificate of Need – Harford Memorial Hospital (Docket No. 09-12-2290) is hereby APPROVED.**

#### **ITEM 9.**

**ACTION:** Staff Proposal to Reduce Trauma Fund Deficiency for FY 2010

Ben Steffen, Director of the Center for Information Services and Analysis, provided an overview of Trauma Fund revenue and expenditures in FY 2009, as well as projections and factors contributing to a deficit in FY 2010 and 2011. He stated that Commission staff recommended an eight percent reduction in uncompensated care, on-call, and stand-by payments beginning July 1, 2009. Following discussion among the Commissioners regarding targeted payment reductions that would require legislative change, the Commissioners reluctantly approved the staff recommendation and directed staff to study additional strategies for restricting payments and report back to the Commission.

#### **ITEM 10.**

#### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 3:35 p.m., upon motion of Commissioner Todd, which was seconded by Commissioner Conway, and unanimously approved.